

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARC BAIN RASELLA, Individually and  
On Behalf of All Others Similarly Situated,

Plaintiff,

v.

ELON R. MUSK,

Defendant.

Case No. 1:22-cv-03026-ALC

**JOINT STIPULATION AND  
[PROPOSED] ORDER REGARDING  
WAIVER OF SERVICE AND  
DEADLINES FOR FILING COMPLAINT  
AND RESPONSES TO COMPLAINT**

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COMPLAINT**

Lead Plaintiff Oklahoma Firefighters Pension and Retirement System (“Lead Plaintiff” or “Oklahoma Firefighters”) and Defendant Elon Musk (“Defendant” and, together with Lead Plaintiff, the “Parties”), through their undersigned counsel of record, hereby stipulate and agree as follows:

**WHEREAS**, on April 12, 2022, Marc Bain Rasella filed a securities class action alleging violations of Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and U.S. Securities and Exchange Commission Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, against Defendant, captioned *Rasella v. Musk*, No. 1:22-cv-03026 (ECF No. 1) (the “Initial Complaint”);

**WHEREAS**, on June 13, 2022, pursuant to the Private Securities Litigation Reform Act of 1995 (the “PSLRA”), Oklahoma Firefighters filed a motion seeking appointment as lead plaintiff and approving its selection of lead counsel in the above-captioned action (ECF No. 8);

**WHEREAS**, on September 2, 2022, the Court appointed Oklahoma Firefighters as Lead Plaintiff, pursuant to Section 21D(a)(3)(b) of the Exchange Act, 15 U.S.C. § 78u-4(a)(3)(B), as amended by the PSLRA, and approved Lead Plaintiff's selection of Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel (ECF No. 23); and

**WHEREAS**, the Parties in the above-captioned action have conferred and agreed regarding (i) waiver of service; (ii) a schedule for Lead Plaintiff to file its Complaint and for submission of letters pursuant to Section 2.A of the Court's Individual Practices, consistent with this Court's October 11, 2022 Memo Endorsement (ECF No. 28), and (iii) a proposed schedule for briefing of a motion to dismiss, should the Court grant leave to file such a motion.

**NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE**, by and through their undersigned counsel, as follows:

1. Defendant waives service of the summons and Initial Complaint and waives any objections to the absence of a summons or of service in this action but without waiver of any defenses, objections, or arguments, apart from insufficiency of service. The filing of this Stipulation shall be deemed the filing of a waiver under Fed. R. Civ. P. 4(d)(4), but Defendant shall have no obligation to return a written waiver of service under Fed. R. Civ. P. 4(d)(2). Defendant also hereby accepts service of Lead Plaintiff's forthcoming Complaint, without waiver of any defenses, objections, or arguments, apart from insufficiency of service.

2. Defendant shall not be required to answer or otherwise respond to, and is hereby expressly relieved from answering or otherwise responding to, the Initial Complaint.

3. Lead Plaintiff shall file its Complaint on or before November 18, 2022.

4. If Defendant wishes to file a motion to dismiss the Complaint, Defendant shall file a letter requesting a pre-motion conference pursuant to Section 2.A of this Court's Individual

Practices on or before December 16, 2022. Lead Plaintiff's response shall be due on or before December 21, 2022.

5. Subject to the Court's review and approval, Defendant respectfully proposes that, if the Court grants Defendant leave to file a motion to dismiss, that (i) the motion be due 30 days after the date on which the Court grants leave; (ii) Plaintiff's opposition to the motion to dismiss be due 60 days after Defendant files the motion to dismiss; and (iii) Defendant's reply in support of the motion to dismiss be due 30 days after Plaintiff files any opposition to the motion to dismiss. Plaintiff does not oppose this proposed schedule.

**IT IS SO STIPULATED.**

Dated: October 19, 2022

**BERNSTEIN LITOWITZ BERGER &  
GROSSMANN LLP**

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*Counsel for Defendant Elon Musk*

Dated: \_\_\_\_\_, 2022

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HON. ANDREW L. CARTER, JR.  
UNITED STATES DISTRICT JUDGE